SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Monday 6th July, 2015 | No. 253

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No.12/LD/15 Dated: 29.06.2015

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 18th day of November, 2014 is here by published for general information:-

THE SIKKIM ANATOMY ACT, 2014
(ACT NO. 12 OF 2014)
AN
ACT

to provide for the supply of unclaimed dead bodies of deceased persons to hospitals and medical and teaching institutions for therapeutic purpose or for the purpose of anatomical examinations or dissections, surgical operation and research work and for matters connected therewith or incidental thereof.

Be it enacted by the legislature of Sikkim in the Sixty-fifth Year of the Republic of India as follows:-

Short title extent and Commencement:

1. (1) This Act may be called the Sikkim Anatomy Act, 2014.

(2) It shall extend to the whole of Sikkim.

(3) It shall come into force on such date as the State Government may by Notification in the Official Gazette, appoint.

Definitions:

2. In this Act, unless there is anything repugnant in the subject of context:-

1 "anatomical examination" means;-

(i) dissection of various parts of the body, for example head, neck, thorax, abdomen, upper limb, lower limb, brain, spinal cord, thereby identification of muscles, arteries, veins, nerves, in gross of various parts mentioned above;

(ii) study of various surface landmarks and attachments on human dry bones;

(iii) study of external and internal features of various organs of the body;

(a) "approved institution" means a Government hospital or a Government medical or teaching institute or declared by the State Government by notification in the Official Gazette to be an approved institution for the purpose of the Act;

(b) "authorized Officer" means an officer authorized to act under section 4;

(c) "Government" means the State Government of Sikkim;

(d) "hospital" means any hospital established or maintained by the State Government or any other hospital which may be declared by the State Government by notification in the Official Gazette to be a hospital for the purpose of this Act;

(e) "near relative" means any of the following relatives of the deceased, namely, a wife, husband, parent, son, daughter, brother and sister and includes any other persons who is related to the deceased:-

(i) by lineal or collateral consanguinity within three degrees in lineal relationship and six degree in collateral relationship, or

(ii) by marriage either with the deceased or with any relative specifically mentioned in this clause or with any other relative within the aforesaid degrees:

Explanation,- The expression "lineal and collateral consanguinity" shall have the meaning assigned to them in the law for the time being applicable in the State of Sikkim;

(f) "prescribed" means prescribed by the rules made under this Act;

(g) "unclaimed body" means the body of a deceased person who has no near relative or whose body has not been claimed by any of his near relative within such time as may be prescribed.

Power of Government to authorize officers to act under section 5.

3 The State Government may, by notification in the Official Gazette, authorise for the area in which this Act comes into force or any part thereof, one or more officers to whom a report shall be made under section 4 and such officer or officers shall be competent to act under the said section.

Donation of bodies or any part thereof for anatomical examination.

4 (1) If any person at any time before his death had expressed an intention in writing in the presence of two or more witnesses, that his body or any part of his body be given to an approved institution for being used after his death for the purpose of conducting anatomical examination and dissection or other similar purpose, any person interested may, unless he has reason to believe that the said intention was subsequently revoked authorize the removal of the dead body or such part thereof to any approved institution for use in accordance with the intention.

(2) Without prejudice to the provisions of sub-section (1) such person interested may authorize the removal of the whole body or any part from the body for use for the purposes specified in sub-section (1) unless he has reason to believe,-

(a) that the deceased had expressed an objection to his body or any part thereof being so dealt with after his death, and had not withdrawn such objection; or

(b) that any near relative of the deceased referred to in clause (f) of section 2 objects to the body being so dealt with.

(3) Subject to the provisions of sub-section (4) and (5), the removal and use of the whole body or any part of a body in accordance with an authority given in pursuance of this section shall be lawful, and shall be sufficient to warrant for the removal of the body or any part thereof and its use for the purposes of this Act.

(4) The body or any part of the body of any deceased person shall not be removed for any of the purposes specified in sub-section (1) from any place where such person may have died,-

(a) within forty-eight hours from the time of such person's death; or

(b) until after twenty-four hours' notice, (to be reckoned from the time of such death) to the Executive Magistrate of the intended removal of the body; or

(c) unless a certificate stating in what manner such person came by his death shall, previously to the removal of the body has been signed by the registered medical practitioner who attended such person during such illness, then by a registered medical practitioner who shall be called in after the death of such person to view his body and who shall state the manner and cause of death according to the best of his knowledge and belief, but who shall not be concerned in dealing with the body for any of the purposes aforesaid removal and in case of such removal, such certificate shall be delivered together with the body to the authority in-charge of an approved institution receiving the same for any of the purposes aforesaid.

(5) If the person interested has reason to believe that an inquest or a post-mortem examination of such body may be required to be held, in accordance with the provision of any law for the time being in force, the authority for the removal of the body or any part thereof shall not be given under this section except with the consent of the authority empower to hold and inquest or order post-mortem under such law.

Unclaimed dead bodies to be used for the therapeutic purpose or anatomical examination.

5. (1) Where a person under treatment in a hospital whether established by or vesting in, or maintained by, the government or any local authority, dies in such hospital and his body is unclaimed, the authorities in charge of such hospital shall with the least practicable delay report the fact to the authorized officer and such officer shall then hand over the unclaimed body to the authorities in charge or an approved institution for any therapeutic purpose or for the purpose of conducting anatomical examination and dissection.

(2) Where a person dies at hospital other than a hospital referred to in sub-section (1) or in a prison and his body is unclaimed, the authorities in charge of such hospital or prison shall with the least practicable delay report the fact to the authorized officer who shall hand over the unclaimed body to the authorities in charge of an approved institution for the purpose specified in sub-section (1).

(3) Where a person having no permanent place of residence in the area where his death has taken place/ dies in any public place in such area and his body is unclaimed, the authorized officer shall take possession of the body and shall hand it over to the authorities in

charge of an approved institution for the purpose specified in sub-section (1).

(4) Where there is any doubt regarding the cause of death or when for any other reason, the authorized officer considers it expedient so to do, he shall forward the unclaimed body to a police officer referred to in section 174 of the Code of Criminal Procedure 1973.

Doubt of dispute whether person claiming body is near relative to referred to Executive Magistrate and body to be preserved pending decision. 6.

(1) If any doubt or dispute arises as to whether a person claiming the body or a deceased person under section 5 is a near relative of the deceased or not the matter shall be referred to the Executive Magistrate or such officers as may be appointed in this behalf by the Government and his decision shall be final and conclusive.

(2) Pending such decision, the authorized officer shall take all responsible care and stapes to preserve the body of the deceased person from decay.

Penalty. 7.

Whosoever disposes of or abets the disposal of an unclaimed body save as permitted by this Act or obstructs any authority in charge of an approved institution or an authorized officer from handling over, taking possession of, removing or using such dead body for the purpose specified in the Act shall on conviction be punished with fine which may extend to one thousand rupees.

Duty of Police and other officers to assist. 8.

All officers of the Police, Health Care Human Services and Family Welfare Department and all officers in the employment of a local authority and all Panchyats shall be bound to take all reasonable measures to assist the authorities and officers authorized under this Act in the discharge of their duties under this Act.

No suit prosecution or other legal proceedings shall lie against any person for anything, which is done in a good faith or intended to be done under this Act.

Protection of person acting under the Act. 9.

All officers appointed or authorized to act under this Act shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

Officer to be public servant. 10.

(1) The Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

Power to make rules. 11.

(2) Without prejudice to the generality of the provisions of sub-section (1) such rules may prescribe the period within which a near relatives shall claim the body of the deceased person.

(3) Every rule made under this section shall be laid as soon as may be after it is made before the State Legislature while it is in session for a total period of thirty-day which may be comprised in one session or in two successive session, and it before the expiry of the session in which it is so laid or the session immediately following the Assembly agrees in making any modification in the rule or the assembly agrees that the rule should not be made the rule shall thereafter have effects only in such modified from or be of no effect as the case may be so, however that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule.

Lakchung Sherpa (SSJS)
L.R.-cum-Secretary
Law Department.